

Office Action Summary	Application No. 10/692,828	Applicant(s) DICKINSON ET AL.	
	Examiner RUTH C. RODRIGUEZ	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17, 20-31, 33-41, 44-55, 58-69 and 72-100 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 5, 7, 9, 10, 14, 15, 22, 26, 27, 33-41, 44-55, 58-69, 72-78 and 83-100 is/are allowed.
- 6) ☒ Claim(s) 4, 6, 8, 11-13, 16, 17, 25, 30 and 31 is/are rejected.
- 7) ☒ Claim(s) 20, 21, 23, 24, 28, 29 and 79-82 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's request for reconsideration of the finality of the Office action mailed on 10/28/2008 is persuasive and, therefore, the finality of that action has been withdrawn.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

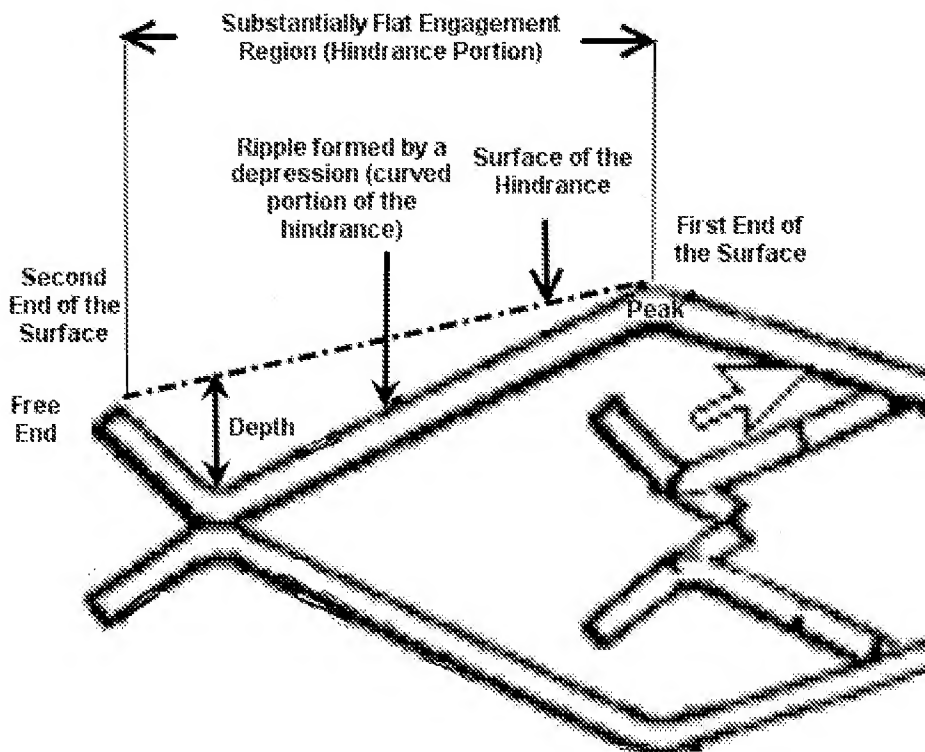
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 4, 6, 11, 12, 16, 17 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Benedetti (US 4,402,118).

A spring fastener (10) comprises a first side (12), a second side (14) opposite the first side, a bottom portion (54) and a top portion (Figs. 1-8). The first side is connected to the second side thereby forming a U-shaped structure having a cavity between the first side and the second side (Figs. 1-8). A bottom portion (54) connects the first side and the second side (Figs. 1-8). The first side comprises first barbs (66) having first front ends (68) and a first engagement spring (34) is connected to the first side in the vicinity of the bottom portion. The second side comprises second barbs (68) having second front ends and a second engagement spring (36) connected to the second side in the vicinity of the bottom portion (Figs. 1-8). Each of the first and second

Art Unit: 3677

engagement springs has a free end (free end of 34 or 36) in the vicinity of the top portion (Figs. 1-8). Each of the first and second engagement springs also comprises a peak (46,48) and an engagement region substantially flat engagement region with a hindrance portion (region of the engagement spring between 46 and the free end of the spring 34 or region of engagement spring between 48 and the free end of the spring 36) between a free end and a peak in the vicinity of the peak (Figs. 1-8). The hindrance portion comprises only one ripple (defined by the recess between 46 and the free end of the spring 34 and defined by the recess between 48 and the free end of the spring 36) having the form of a depression (recess provided between 46 and the free end of the



Art Unit: 3677

spring 34 and recess provided between 48 and the free end of the spring 36) on the hindrance portion. The depression has a deepest part, a back side (near the free end) substantially lacking a front side (near the peak) and a width (Figs. 1-8). The hindrance portion has a surface (between the peak and the free end) wherein the depth of the ripple is the distance between the surface of the hindrance and the deepest part of the ripple (Figs. 1-8). The ripple provides increased removal force and when the fastener is pulled by an extension (20) of a first part (16) engaged to the first and second barbs after the fastener has been inserted into a slot (28) of a second part (26) (Figs. 1-8). The slot having a slot width and edges on which edges the engagement region is engaged (Figs. 1-8). It is inherent that the increased removal force is due to the hindrance portion and the fastener can be extracted when pulled by the extension without damage to the fastener as Figs. 1-8 since the spring fastener only engages the sides of the slot in order to retain the spring fastener and upon application of a considerable amount of force the spring fastener can deform allowing the disengagement of spring fastener and the slot without causing any damage to the spring fastener.

Benedetti also discloses that:

- The fastener has been made of a material having a thickness (measured between the peaks of the first and second engagement springs). The depth of the ripple is smaller than the thickness (Figs. 1-8).
- The ripple width (measured from the peak to the free end) of each engagement spring is larger than the depth of the ripple.

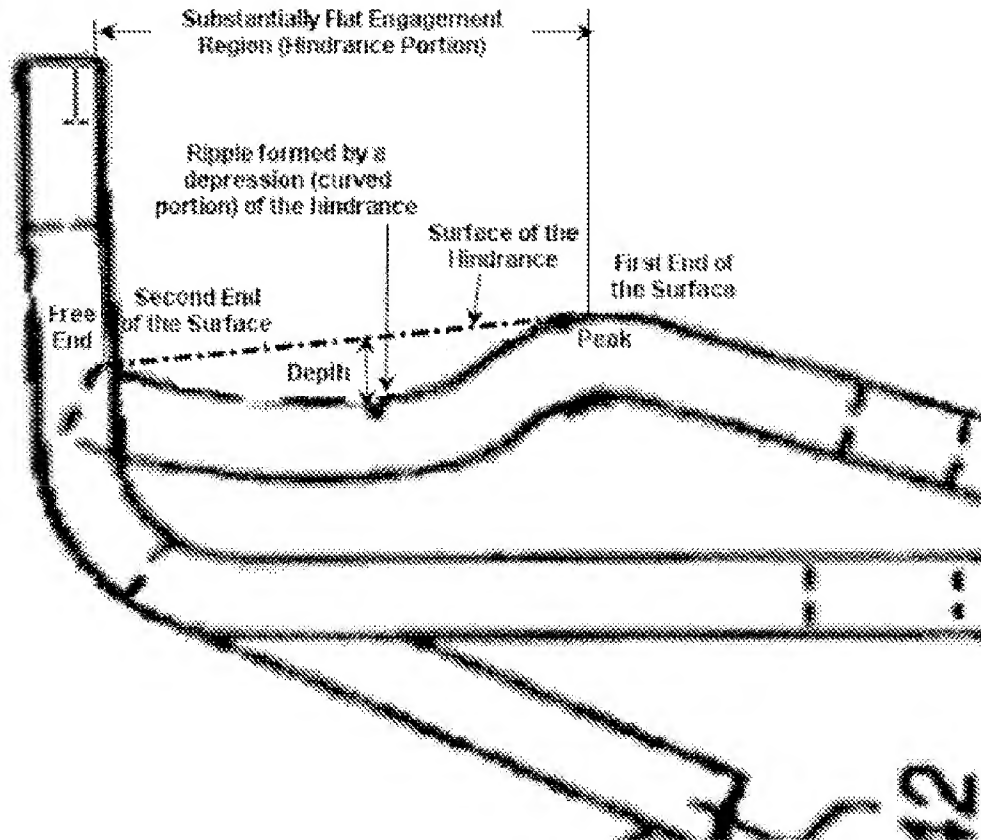
Art Unit: 3677

- The back side has the form of a curvature with a gradually decreased slope (Figs. 1-8).
 - The barbs are selected from a group consisting essentially of: first barbs being outer barbs and second barbs being inner barbs where the first barbs are outside outer barbs and the second barbs are inside outer barbs and first barbs being inner barbs and the second barbs being inner barbs (Figs. 1-8).
 - The fastener has a width in the vicinity of the top portion of the fastener that is at least 60% as wide as the slot width (Figs. 1, 3 and 5-7).
4. Claims 4, 6, 11, 12, 16, 17, 25, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osterland et al. (US 6,928,705 B2).

Osterland discloses a spring fastener (20,120) comprises a first side (22,122) and a second side (22,122) opposite the first side (Figs. 1-21). The first side is connected to the second side thereby forming a U-shaped structure (20,120) having a cavity between the first side and the second side (Figs. 1-21). A bottom portion (40,140) connects the first side and the second side and a top portion (24,124). The first side comprises first barbs (26,126) having first front ends and a first engagement spring (28,128). The first engagement spring connected to the first side in the vicinity of the bottom portion (Figs. 1-21). The second side comprises second barbs (26,126) having second front ends and a second engagement spring (28,128). The second engagement spring connected to the second side in the vicinity of the bottom portion (Figs. 1-21). Each of the first and second engagement springs has a peak and an engagement region (36,136) with a hindrance portion (region of the engagement spring between 37,137 and the free end of the spring

Art Unit: 3677

28,128) between the free end and the peak (37,137) in the vicinity of the peak (Figs. 1-21). The hindrance portion comprises only one ripple having the form of a depression (recess provided between 37,137 and the free end of the spring 28,128) on the hindrance portion. The depression has a deepest part, a backside substantially lacking a front side and a width (Figs. 1-8). The hindrance portion has a surface (between 37,137 and the free end of the spring 28,128) wherein the depth of each ripple is the distance between the surface of the hindrance and the deepest part of the respective ripple (Figs. 1-21). It is inherent that the increased removal force is due to the hindrance portion and the fastener can be extracted when pulled by the extension without damage to the fastener as Figs. 1-8 since the spring fastener only engages the sides of the slot in order



to retain the spring fastener and upon application of a considerable amount of force the spring fastener can deform allowing the disengagement of spring fastener and the slot without causing any damage to the spring fastener.

Osterland also discloses that:

- The fastener has been made of a material having a thickness (measured between the peaks of the first and second engagement springs). The depth of the ripple is smaller than the thickness (Figs. 1-21).
- The ripple width (measured from the peak to the free end) of each engagement spring is larger than the depth of the ripple (Figs. 1-21).

Art Unit: 3677

- The back side has the form of a curvature with a gradually decreasing slope (Figs. 1-21).
- The barbs are selected from a group consisting essentially of: first barbs being outer barbs and second barbs being inner barbs where the first barbs are outside outer barbs and the second barbs are inside outer barbs and first barbs being inner barbs and the second barbs being inner barbs (Figs. 1-21).
- The fastener has a width in the vicinity of the top portion of the fastener that is at least 60% as wide as the slot width (Figs. 10A-11 and 20A-21).
- The fastener further comprises additional lower barbs (137) pointing inwardly and originating from the vicinity of the bottom portions of the first side and the second side of the fastener (Figs. 12-21).
- Each side of the spring fastener has only one upper barb and one lower barb (Figs. 12-21). The upper barb of one side facing the lower barb of the other side and vice versa (Figs. 12-21).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benedetti.

Benedetti discloses a spring fastener with all the limitations listed above in paragraph 5 for the rejection of claims 11. Benedetti fails to disclose that the gradually decreasing slope has the shape of an arch in the range of 50-70 degrees and the arch has a radius of 0.03 to 0.05 mm. However, it would have been obvious matter of design choice to provide a gradually decreasing slope has the shape of an arch in the range of 50-70 degrees and the radius of the arch being 0.03 to 0.05 mm, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237, (CCPA 1955).

Benedetti discloses a spring fastener with all the limitations listed above in paragraph 5 for the rejection of claims 11. Benedetti fails to disclose the dimensions of the spring fastener. However, it would have been obvious matter of design choice to provide the dimension cited in the claims since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237, (CCPA 1955).

7. Claims 2, 8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osterland et al.

Osterland discloses a spring fastener with all the limitations listed above in paragraph 6 for the rejection of claims 11. Osterland fails to disclose that the gradually decreasing slope has the shape of an arch in the range of 50-70 degrees and the arch has a radius of 0.03 to 0.05 mm. However, it would have been obvious matter of design choice to provide a gradually decreasing slope has the shape of an arch in the range of

Art Unit: 3677

50-70 degrees and the radius of the arch being 0.03 to 0.05 mm, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237, (CCPA 1955).

Osterland discloses a spring fastener with all the limitations listed above in paragraph 6 for the rejection of claims 11. Osterland fails to disclose the dimensions of the spring fastener. However, it would have been obvious matter of design choice to provide the dimension cited in the claims since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237, (CCPA 1955).

Allowable Subject Matter

8. Claims 1, 3, 5, 7, 9, 10, 14, 15, 22, 26, 27, 33-41, 44-55, 58-69, 72-78 and 83-100 are allowed.
9. Claims 20, 21, 23, 24, 28, 29 and 79-82 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

The claim listing submitted in the response filed on 01/29/2009 shows Claim 32 having an incorrect status identifier of "(previously presented)", which is incorrect. Claim 32 has been canceled as indicated in the previously claim listing in the previous

Art Unit: 3677

amendment filed on 07/22/2008. Therefore, the current status of claim 32 should have read as "canceled". Canceled claims can not be revived with its original claim number once they are canceled. Applicant is reminded that according to 37 CFR §1.121(c)(4)(i), the no claim text shall be presented for any claim in the claim listing with the status of "canceled".

However, for the purpose of discussion, the previously claimed subject matter of Claim 32, now canceled would have been rejected under 35 U.S.C. 103(a) as being unpatentable over Osterland et al. in view of Holton.

Osterland discloses a spring fastener with all the limitations listed above in paragraph 6 for the rejection of claims 11. Osterland fails to disclose that the spring fastener further comprises a relief opening in the vicinity of the bottom of the spring fastener. However, Holton teaches a spring fastener comprises a first side (38) and a second side (38a) opposite the first side (Figs. 4-6). The first side is connected to the second side thereby forming a U-shaped structure having a cavity between the first side and the second side (Figs. 4-6). A bottom portion connects the first side and the second side and a top portion (Figs. 4-6). The spring fastener further comprises a relief opening (70) in the vicinity of the bottom of the spring fastener. The relief opening increases deformability or collapsibility of the body section making it easier to secure the fastener on to a supporting panel or part (C. 4, l. 16-17). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a relief opening in the vicinity of the bottom of the spring fastener as taught by Holton in the

Art Unit: 3677

fastener of Osterland. Doing so, increases deformability or collapsibility of the U-shaped structure making it easier to secure the fastener on to a supporting panel or part.

10. Applicant's arguments filed 29 January 2009 have been fully considered but they are not persuasive.

11. The Applicant argues that the Examiner failed to allow claims 2, 4, 6, 8, 11-13, 16, 17, 25, 30 and 31 even though claim 11 was amended to include the limitations of claim 32 that was previously indicated as objected for being dependent upon rejected independent claim 11 and that it could be allowable if written in and independent claim. The Examiner will like to point out that claims 32 was previously rejected by using the teaching of Smith (US 5,987,714) that has the same assignee and this application. The Examiner removed the rejection since the current application and the patent document by Smith were commonly assigned and the Examiner proceeded to indicate this claims as allowable. However, the Examiner realized that claim 11 could be rejected using the patent document of Holton (US 3,525,129) when a final review of the prior art was made. Once again, the Examiner regrets any inconvenience experienced by the Applicant regarding to the prior indication of allowability of claim 11. However, Holton is clearly teaching that the use of a relief opening in the vicinity of the bottom of the spring member is well known in the art in order to increases deformability or collapsibility of the U-shaped structure making it easier to secure the fastener on to a supporting panel or

part. Therefore, the Examiner can not indicate that a claim is allowable when Holton clearly points out advantages that are being provided by the claimed feature.

12. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a ripple having the form of a depression" not being provided in spring whose thickness is constant) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claims will remain rejected because the Applicant fails to recite any limitation directed to the thickness of the spring or how to measure such a thickness in relation to the depression. The Applicant also argues that Benedetti also fails to disclose a list of other features. The Examiner fails to be persuaded by this argument because the Examiner has provided a detailed explanation and illustration of how these features are being met by Benedetti. Therefore, the claims will remain rejected.

13. The same response to the arguments of Benedetti applies to the arguments presented against Osterland since the Applicant applies the same arguments to both references.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor D. Batson can be reached on (571) 272-6987.

Art Unit: 3677

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/RCR/
Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

rcr
February 24, 2009

/Robert J. Sandy/
Primary Examiner, Art Unit 3677